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March 30, 2022

**VIA ECF**

The Honorable Kevin McNulty, U.S.D.J.  
Martin Luther King Bldg. & U.S. Courthouse  
Newark, NJ 07102

**Re: --Notice of Supplemental Authority--  
Open MRI and Imaging of RP Vestibular Diagnostics, P.A v. Cigna Health  
and Life Ins. Co.  
Docket No. 20-10345-KM-ESK**

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Your Honor:

This law firm represents defendant Cigna Life and Health Insurance Company (“Cigna”) in the above-referenced matter. Presently fully briefed and pending before the Court is Cigna’s Motion to Dismiss Plaintiff’s Second Amended Complaint (ECF Nos. 51, 63, 66) (the “Motion”). We write to advise the Court of case law decided since that briefing was complete.

As Your Honor is aware, in a letter dated February 18, 2022, Cigna raised to the Court’s attention a decision issued by the United States District Court for the Southern District of Texas on motions to dismiss in an action entitled *Diagnostic Affiliates of Northeast Hou, LLC v. United Healthcare Services, Inc., et al.*, No. 2:21-CV-131, 2022 WL 214101 (S.D. Tex.). (ECF No. 67).

Since Cigna’s February 18, 2022 letter, on March 11, 2022, the United States District Court for the District of Connecticut issued a decision in *Murphy Med. Assocs., LLC v. Cigna Health & Life Ins. Co.*, No. 3:20CV1675(JBA), 2022 WL 743088 (D. Conn. Mar. 11, 2022). The *Murphy Medical* court, like *Diagnostic Affiliates*, addresses whether a private cause of action exists under the statutes on which Plaintiff bases its claims. As of Cigna’s briefing on the Motion, no case law existed on that point. These subsequently-issued opinions, in our view, require these submissions of supplementary authority.

While these out-of-circuit decisions are not binding on this Court, we respectfully request leave to submit supplemental briefing addressing these newly-issued opinions. We do not believe that these cases undermine the position taken by Cigna on the Motion, and we look forward to setting forth our discussion of that. We will not, however, do so without leave in this Notice of Supplemental Authority.

GIBBONS P.C.

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We thank Your Honor for your kind attention to this submission. Please do not hesitate to have the Court's staff contact me with any questions or if we may be of any service whatsoever to the Court.

Respectfully,

s/ E. Evans Wohlforth, Jr.

E. Evans Wohlforth Jr., Esq.

Enclosure

cc: All Counsel of Record (via ECF)